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EXAMINER

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ART UNIT PAPER NUMBER

2144

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/082,958
Filing Date: February 26, 2002
Appellant(s): LODA, DAVID C.

Ross Christie, Reg.No. 47492
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/26/2006 appealing from the Office action
mailed 09/20/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Charles US Patent 6449103

Pugliese et al. US Publication 20010044751

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13 recites 'a movable platform'. The Examiner notes that said limitation may cause undue confusion or misinterpretation. The Applicant Specifications define said platform to be any entity that is movable. (Applicant Specifications Page 4)

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charles (US Patent 6449103) in view of Pugliese et al. (US Publication 20010044751), hereinafter referred to as Pugliese.

Charles substantially disclosed the features of the invention described in the claims below.

With respect to Claim 1 Charles disclosed an integrated system comprising: (Charles - Figures 177-180, Column 9 Lines 30-50, Column 59 Lines 10-25) a portal (Charles - Figure 178, Item 178L); at least one wireless local area network in communication with a server (Charles - Figure 178-179, Items 179e) ; at least one mobile device (Figure 178, Column 30 Lines 10-15, Column 30 Lines 45-55) in wireless communication with said at least one wireless local area network; (Charles – Column 16 Lines 5-10)

The Examiner interprets the portal to be a computer that is enabled to view visual data via a web site concurrently with a web-based community of users. (Applicant Specifications Page 6)

Charles disclosed a portal as embodied by a computer connected to the Internet for presenting visual data to the user(s). (Charles – Column 60 Lines 1-15) However Charles does not disclose certain features of the invention, such as using a server hosting a website, such that users are able to access visual data via a web page [portal]. While Charles disclosed of using control means for games and robotic devices, interactive input devices and goggles in conjunction with the remote visual device, Charles does not disclose of operating the visual device via a website [portal]. While Charles was concerned with the distribution and display of video data over the Internet, (Charles – Column 7 Lines 15-20) Charles would have been motivated to look for other disclosures regarding remote viewing and observing of subject matter (Charles – Column 7 Lines 15-20, Lines 33-36) via Internet, such as Pugliese.

Pugliese disclosed an online shopping portal that allows registered users and merchants to communicate via an interactive video communication system via a website. Pugliese disclosed of users being able to remotely operate the video camera in order to view products from the merchant store.

Pugliese disclosed a server communicating with said portal and a means for enabling two-way communications between said portal and said server. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

Charles and Pugliese are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Pugliese regarding website portals that host interactive video communications into the method and apparatus of Charles. The said combination would enable the method and apparatus of Pugliese to manage an Internet website for coordinating viewing of the visual data, and to allow users to remote operate the visual device by issuing commands via said website. The suggested motivation for doing so would have been, as Pugliese suggests (Pugliese - Paragraph 6), so that users at the remote site may be able to hold interactive sessions with and obtain input from knowledge experts at other remote sites.

The combination of Charles and Pugliese disclosed Claim 2 - The integrated system of claim 1 wherein said portal may be accessed by at least one mobile device in communication with said portal. (Charles - Figure 180 Item 180a, Column 58 Lines 15-35)

The combination of Charles and Pugliese disclosed Claim 3 - The integrated system of claim 1 wherein said at least one local area network is physically integrated with said server. (Charles - Figure 179c)

The combination of Charles and Pugliese disclosed Claim 4 - The integrated system of claim 1 wherein said at least one local area network is in wireless communication with said server. (Charles - Figure 179, Column 16 Lines 1-15)

The combination of Charles and Pugliese disclosed Claim 5 - The integrated system of claim 2, wherein said at least one mobile device comprises a PC tablet. (Charles - Figure 178)

The combination of Charles and Pugliese disclosed Claim 6 - The integrated system of claim 1, further comprising a borescope and said borescope being in communication with a mobile device. (Charles - Figure 64, Figure 137, Figure 177i, Column 16 Lines 1-15, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

The combination of Charles and Pugliese disclosed Claim 7 - The integrated system of claim 6, wherein said borescope communicates with said mobile device via a data feed wire. (Charles - Figure 64, Figure 180, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

The combination of Charles and Pugliese disclosed Claim 8 - The integrated system of claim 7, wherein said mobile device comprises at least one USB port for receiving said data feed wire. (Charles - Figure 64, Figure 180, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

The combination of Charles and Pugliese disclosed Claim 9 - The integrated system of claim 2, further comprising a visual data device in communication with said at least one mobile device. (Charles - Figure 64, Figure 180, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30)

The combination of Charles and Pugliese disclosed Claim 10 - The integrated system of claim 19, wherein said stereographic viewing system comprises a stereo image lens in communication with said at least one mobile device. (Charles - Figure 177-180, Column 30 Lines 10-15, Column 47 Lines 20-30, Column 54 Lines 25-50)

The combination of Charles and Pugliese disclosed Claim 11 - The integrated system of claim 10, wherein said at least one mobile device comprises at least one USB port for receiving data from said stereo image lens. (Charles - Figure 177-180, Column 30 Lines 10-15, Column 47 Lines 20-30, Column 54 Lines 25-50)

The combination of Charles and Pugliese disclosed Claim 12 - The integrated system of claim 1, wherein said server is addressable by a unique IP address and wherein said server hosts at least one web page. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166, Paragraph 268)

The combination of Charles and Pugliese disclosed Claim 13 - The integrated system of claim 1, wherein said server is located on said at least one mobile platform . (Charles - Figure 179, Items 179t, 179r, Column 47 Lines 20-30, Column 59 Lines 5-25, Column 60 Lines 1-15)

The combination of Charles and Pugliese disclosed Claim 14 - A method for providing remote, interactive visual analysis of an apparatus, (Charles - Figures 177-180, Column 9 Lines 30-50, Column 59 Lines 10-25) comprising the steps of: providing a portal, said portal in communication with at least one electronic device (Charles - Figure 178, Item 178L); integrating said server into a wireless local area network; (Charles - Figure 178-179, Items 179e) connecting at least one mobile platform to said local area network; providing visual data from at least one visual device to said at least one mobile platform; and receiving said visual data at said at least one electronic device. (Charles - Figure 179, Items 179t, 179r, Column 59 Lines 5-25, Column 60 Lines 1-15, Column 30 Lines 10-15, Column 47 Lines 20-30, Column 54 Lines 25-50) ; providing a server two-way communication with said portal via the internet. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

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The combination of Charles and Pugliese disclosed Claim 15 - The method of claim 14 comprising the additional step of issuing control commands to said at least one visual device from said at least one electronic device. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

The combination of Charles and Pugliese disclosed Claim 16 - The method of claim 15, wherein said control commands are issued response to receiving said visual data by said at least one electronic device. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

The combination of Charles and Pugliese disclosed Claim 17 - The method of claim 16, further comprising altering an orientation of said visual device in accordance with said control commands. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

The combination of Charles and Pugliese disclosed Claim 18 - The method of claim 14, wherein said receiving of said visual data is limited by a community affiliation of said one or more electronic devices. (Pugliese - Figure 2-4, Paragraph 8-10, Paragraph 156-166)

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The combination of Charles and Pugliese disclosed Claim 19 - The integrated system of claim wherein said visual data device comprises a stereographic viewing system. (Charles - Column 30 Lines 10-15, Column 54 Lines 25-50)

(10) Response to Argument

Rejections under 35 U.S.C. §112, SECOND PARAGRAPH

The Applicant presents the following argument(s) [*in italics*]:

Appellant asserts that the specification as written provides both clarity and precision with respect to the claim term "movable platform". The phrase "or any other entity that is movable" must be read in context. When reading the entire sentence, one of ordinary skill in the art recognizes the "or any other entity that is movable" refers to other movable platforms that are similar to "a boat, an airplane, a spacecraft, an automobile, a truck,..." without rendering inoperable Appellant's claimed.

The Examiner respectfully disagrees with the Applicant. While the Applicant cites several examples, the Applicant Specifications do not provide any definition for an 'entity that is movable'. Thus the claim language '*mobile platform*' as defined in the Applicant Specification by the phrase "*or any other entity that is movable*" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed,

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thereby rendering the scope of the claim(s) unascertainable. Absent claim language carrying a narrow meaning, the scope of said claim language should only be limited by the specification or prosecution history when those sources expressly disclaim the broader definition.

Rejections under 35 U.S.C. §103(A)

The Applicant presents the following argument(s) [*in italics*]:

Pugliese does not teach or suggest using "at least one mobile device" as recited in Appellant's independent claim 1, and "at least one visual device" as recited in Appellant's independent claim 14... Pugliese does not correct the deficiencies of Charles.

The Examiner respectfully disagrees with the Applicant.

The Examiner notes that Charles fully disclosed '*at least one mobile device*' (Charles – Figure 178, Figure 179, Items 179t, 179r, Column 59 Lines 5-25, Column 60 Lines 1-15). Charles also disclosed '*at least one mobile device*' (Charles - Figure 64, Figure 180, Column 45 Lines 55-60, Column 46 Lines 35-50, Column 47 Lines 20-30).

Pugliese is not relied upon to disclose '*at least one mobile device*', '*at least one mobile device*', and a mobile platform. Instead, Pugliese is relied upon to disclose a

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server communicating with a web portal and a means for enabling two-way communications between said portal and said server.

Charles disclosed a portal as embodied by a computer connected to the Internet for presenting visual data to the user(s). (Charles – Column 60 Lines 1-15) However Charles does not disclose certain features of the invention, such as using a server hosting a website, such that users are able to access visual data via a web page. While Charles disclosed of using control means for games and robotic devices, interactive input devices and goggles in conjunction with the remote visual device, Charles does not disclose of operating the visual device via a website. While Charles was concerned with the distribution and display of video data over the Internet, (Charles – Column 7 Lines 15-20) Charles would have been motivated to look for other disclosures regarding remote viewing and observing of subject matter (Charles – Column 7 Lines 15-20, Lines 33-36) via Internet, such as Pugliese.

The Applicant presents the following argument(s) *[in italics]*:

Charles in view of Pugliese is erroneous as Charles and Pugliese are not analogous art.

The Examiner respectfully disagrees with the Applicant.

Charles was concerned with the distribution and display of video data over the Internet (Charles – Column 7 Lines 15-20) to groups of users (Charles – Column 7 Lines 14). Charles would have been motivated to look for other disclosures regarding remote viewing and observing of subject matter (Charles – Column 7 Lines 15-20, Lines 33-36) via Internet, such as Pugliese. The process of online shopping commonly involves viewing and observing subject matter via the Internet. Thus Charles would have been motivated to implement the teachings of Pugliese in order to facilitate viewing and observing subject matter via the Internet.

The Applicant presents the following argument(s) [*in italics*]:

Charles teaches so much that Charles does not teach anything truly meaningful with which to provide the requisite motivation to effectively combine with Pugliese for purposes of constructing a rejection under 35 U.S.C. §103.

The Examiner respectfully disagrees with the Applicant. Applicant's arguments do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited. Further, they do not show how the claim language avoid said references.

The lack of diagrams, flow charts, and other details in the prior art references do not render them nonenabling in view of the fact that applicant's own specification failed to provide such detailed information, and that one skilled in the art would have known

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how to implement the features of the references.

The Applicant presents the following argument(s) [*in italics*]:

Pugliese does not teach, suggest or motivate one of ordinary skill in the art to seek out the optical system taught by Charles..., upon reading the disclosure of Pugliese, one of ordinary skill in the art would not in turn seek out the Charles reference because Charles does not provide any teaching, suggestion or motivation to use its optical system for online shopping.

The Examiner respectfully disagrees with the Applicant and notes that the rejection was based on Charles in view of Pugliese.

Charles was concerned with the distribution and display of video data over the Internet (Charles – Column 7 Lines 15-20) to groups of users (Charles – Column 7 Lines 14). Charles would have been motivated to look for other disclosures regarding remote viewing and observing of subject matter (Charles – Column 7 Lines 15-20, Lines 33-36) via Internet, such as Pugliese. The process of online shopping commonly involves viewing and observing subject matter via the Internet. Thus Charles would have been motivated to implement the teachings of Pugliese in order to facilitate viewing and observing subject matter via the Internet.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

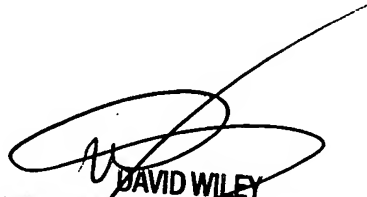
Greg Bengzon

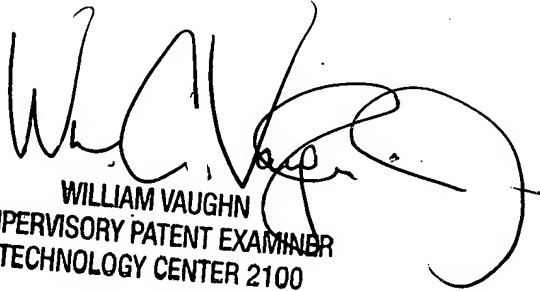
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